PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference RJP/JFB/Y2081	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/GB 03/05318	International filing date *(day/month/year)* 05.12.2003	Priority date *(day/month/year)* 06.12.2002
International Patent Classification (IPC) or both national classification and IPC G01F19/00		
Applicant BOOTS HEALTHCARE INTERNATIONAL LIMITED et al.		

1. This International preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

   ☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

   These annexes consist of a total of 2 sheets.

3. This report contains indications relating to the following items:

   - I ☒ Basis of the opinion
   - II ☐ Priority
   - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
   - IV ☐ Lack of unity of invention
   - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
   - VI ☐ Certain documents cited
   - VII ☐ Certain defects in the international application
   - VIII ☐ Certain observations on the international application

Date of submission of the demand	Date of completion of this report
24.05.2004	09.03.2005
Name and mailing address of the international preliminary examining authority: European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Roetsch, P Telephone No. +49 89 2399-2548

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/GB 03/05318

I. Basis of the report

1. With regard to the **elements** of the international application *(Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17))*:

Description, Pages

1-9 as originally filed

Claims, Numbers

1-8 received on 04.02.2005 with letter of 28.01.2005

Drawings, Sheets

1/3-3/3 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

   These elements were available or furnished to this Authority in the following language: , which is:

   ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).

   ☐ the language of publication of the international application (under Rule 48.3(b)).

   ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

   ☐ contained in the international application in written form.

   ☐ filed together with the international application in computer readable form.

   ☐ furnished subsequently to this Authority in written form.

   ☐ furnished subsequently to this Authority in computer readable form.

   ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

   ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

   ☐ the description, pages:

   ☐ the claims, Nos.:

   ☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

   (Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes:	Claims	1-8
	No:	Claims	
Inventive step (IS)	Yes:	Claims	
	No:	Claims	1-8
Industrial applicability (IA)	Yes:	Claims	1-8
	No:	Claims	

2. Citations and explanations

   see separate sheet

Reference is made to the following documents:

D1: ES 276 900 U (CAMP FABRICA DE JABONES) 16 June 1984 (1984-06-16)
D2: DE 83 33 126 U (TAD PHARM WERK) 2 February 1984 (1984-02-02)
D3: US-A-2 019 071 (CARR FRANK P) 29 October 1935 (1935-10-29)
D4: US 202 268 A (WILMER KELLER) 9 April 1878 (1878-04-09)

Ad Section V

1) The present application does not meet the requirements of Article 33(1) PCT, because, as far as the claims can at present be understood, the subject-matter of claims 1-8 does not involve an inventive step in the sense of Article 33(3) PCT.

2) **Independent claim 1**

2.1) Document **D1** discloses (cf. figures 1-2 and the related text-passages) a measuring and dispensing device (cf. p. 1, l. 1-12) for attachment to the cap (5) on a bottle of liquid (7), the device comprising on one of its sides a socket formation (3) by means of which it may be releasably attached to the cap (see fig. 1-2 and p. 3, l. 2-6), and on another side a concave formation for receiving liquid (see figures 1 and 5), wherein the socket formation (3) is a close but non-gripping fit on the cap (see fig. 1-2).

NB: After careful reconsideration of the disclosure of document **D1** it is considered that the formation for receiving liquid of **D1** is also a concave formation because its shape generally curves inward (see fig. 1-2).

Moreover, the outer surface of the cap (5) and the inner surface of the cavity (3) have complementary longitudinal formations (4,8) allowing them to closely fit together without gripping. Further it has not been defined in said claim how closely the cap fits within the socket.

2.2) The only difference, if any, between the subject matter of the claim and the device of **D1** is that the liquid is a liquid medicine.

2.3) The problem to be solved is how to adapt the measuring and dispensing device to a bottle of liquid medicine. This feature does not need any inventive skill since the measuring and dispensing device disclosed in **D1** is adapted to any kind of liquid (cf. p. 1, l. 4-12).

2.4) Thus the solution proposed in claim 1 of the present application cannot be considered as involving an inventive step.

3) **Dependent claims 2-5**

Dependent claims 2-5 do not appear to contain any additional features which, in combination with the features of any claim to which they refer, meet the requirements of the EPC with respect to inventive step, because the additional features of claims 2-5 are already disclosed in **D1** and/or in **D2**:

- Claims 2-3: see **D1**, fig. 1 and **D2**, fig. 3.
- Claim 4: see **D2**, fig. 3 and page 9, lines 6-14 (see also **D4**, fig. 2).
- Claim 5: see **D2**, page 9, lines 10-14.
  [the polycarbonate material does a priori "not act to retain liquid medicine"; this feature is anyway directly dependent on the properties of the liquid medicine itself].

4) **Claims 6-8**

Claims 6-8 do not appear to contain any additional features which meet the requirements of the EPC with respect to inventive step, because all the additional features are already disclosed in **D1** (see fig. 1-2).

RULE 6.2(a) PCT

The independent claim 8 relies on references to the drawings. This does not meet the requirements of Rule 6.2(a) PCT because in this application it is not "absolutely necessary" to rely on reference to the drawings in order to define the device (see also the PCT Guidelines, III, 4.10.). Claim 8 should have been deleted.